CONDOMINIUM CONVERSION POLICY

The Committee submits the report (August 30, 1983) from Alderman Jakobek, Chairman and Aldermen Hope and Walker, The Study Group on Condominium Conversions:

Introduction:

The City's policy on condominium conversions has been subject to strong pressure in recent years. In principle, the policy is a strict one: *no* conversions of apartment houses as long as the rental vacancy rate is under 2.5%.

For buildings other than apartment houses, such as duplexes, triplexes, etc., similar restrictions apply with the exception only of buildings constructed originally as one-family residences.

In practice, the policy has not been as rigid as it appears in theory, and a number of apartment house conversions have been approved (see Appendix).

No rationale has been provided for approving these exceptions, and Council may be in danger of losing control of the process. Unless we move quickly to establish a coherent policy, future applicants for conversion may cite the cases already approved as precedents, and may be successful on appeal to the OMB if rejected by Council.

Judged on their individual merits, conversions allowed so far make sense. In almost every case, the building concerned was already lost to the moderately priced rental stock, and would remain so whether converted to condominium or not. Extensively renovated and in prime market areas, these buildings had either escaped from rent review or never been subject to it. The likely alternative to condominium conversion was operation as a luxury rental project.

Our prime concern is that owners of buildings which are still in the moderate rental stock may now be encouraged to secure luxury rental status for their buildings, as a means of obtaining condominium conversion in future. This process has been described as the "two-step" conversion process. The first step (luxury rental conversion) is possible because notwithstanding the existence of rent review, various means are available to obtain significantly higher rents. The most commonly used is to undertake renovations (whether needed or not) which require the eviction of all tenants.

In our opinion, Council should not provide additional incentives for conversion of moderate rental buildings to luxury buildings. Such an incentive would be provided if a condominium conversion is perceived as available at the end of the process, an impression which recent Council actions may well convey. We should make it clear that *no* building currently in the moderate rental stock will be converted to a condomimium, even if it has become a luxury rental building by the time of application.

In order to implement such a policy, it is necessary to address certain key questions:

- What is a luxury rental building and how many buildings meet this definition?
- What is a moderate rental building and how many buildings meet this definition?
- In cases where condominium conversion of luxury rental buildings is considered, what requirements should be met?

We believe that once the issue of protecting the moderate rental stock has been dealt with, there is no reason why condominium conversions of other buildings should not be considered.

Identification of Luxury Rental Buildings:

The Commissioner of Planning and Development has examined data collected for the CMHC rental survey in April 1983, the only survey for which data are available at the City level. The survey indicates that about 15 rental buildings exist in the City of Toronto where all units rent over $750 per month. In total, these 15 buildings contain approximately 200 units. Nine buildings containing 126 units are identified in the survey itself. The larger totals were arrived at by assuming buildings not covered by the survey have similar rental characteristics to those that were covered. This is a reasonable assumption except possibly in the case of duplexes — a category of buildings not covered in the survey and in which buildings with all units over $750/month are likely more numerous than in rental buildings generally. In terms of overall potential for condominium conversions, the numbers are most probably not unduly high.

In our view, the all-units-over-$750 threshold is the most appropriate criterion for identifying luxury rental buildings. CMHC surveys permit us to identify units according to an over-or-under

$750 threshold, but do not further specify rents. Thus if a more liberal criterion is adopted — such as all units over $600/month — we could not estimate the potential number of conversions except to say it is more than 15 buildings and more than 200 units. In any event, it is clear that buildings with all units over $750/month would be occupied predominantly by households with incomes above the low-to-moderate range. There may be some units occupied as shared accommodation by moderate-income individuals, but we are satisfied that substantial vacancy exists in the over-$750/month apartment stock. This vacancy exists for the most part in condominium buildings which are rented out (the CMHC vacancy rate for such buildings is 7.3%), and provides alternative accommodation in the same rental range for those tenants not wishing to purchase their units.

Administration of Proposed Policy:

Assuming that existing luxury rental buildings are exempted from restrictions on conversions, it becomes essential to certify them officially as soon as possible, so that doubts do not arise in future regarding rent levels in 1983. The CMHC survey of April 1983 permits a large part of the luxury stock to be identified readily. Other luxury buildings which are not covered by the CMHC survey can be identified by mail survey. Essentially what would be involved in the case of these buildings, as well as with the CMHC buildings, is to ask the owners concerned if they wish to keep the option open of a future condominium conversion. If they do, they would be required to provide City staff with evidence that as of August 1983, all units were rented at over $750/month. Copies of leases or tenancy agreements would be the most appropriate form of evidence. These could be further verified with tenants. The required certification should be carried out by the end of 1983, while rent rolls are still as nearly current as possible.

Certification would result in a list of buildings eligible for condominium conversion in future. Such a list would not be published, but would be referred to as future applications come in. Every building not on the list is deemed to be a moderate rental building, not eligible for condominium conversion. Thus the moderate rental stock comprises all of the approximately 105,000 private rental apartments in the City except the 200 or so in luxury buildings. While it is conceivable that buildings not yet constructed could be luxury rental buildings when initially occupied, it is considered likely that every luxury residential building developed in future will be a registered condominium. Accordingly, any building not on the list and described in future as a luxury rental building could only have reached that state by conversion from the now-existing moderate rental stock.

Further Issues:

A problem arises with units which were vacant as of August 1983. The most appropriate way of dealing with these is to require an independent appraisal of their rental value. The appraised rental value would have to exceed $750/month if these vacant units are to be deemed luxury units.

Protection for incumbent tenants not wishing to buy their units is desirable. Requiring a one-year lease to be offered to such tenants appears to be an appropriate measure. To avoid economic eviction it is necessary to restrict rent on the lease to the existing level plus escalation at the average rate of increase in rents in the City for the most recent year, or some mutually agreed alternative.

The matter of condominium conversions of converted dwelling houses should also be considered. Since 1980 Council has been approving condominium conversions of buildings originally constructed as single-family residences. In our view, these buildings should continue to be eligible for condominium conversion regardless of whether rents are over $750/month or not. The basis for this recommendation is that Council's ability to retain such buildings in the rental stock is severely limited. While there are no doubt some cases where continued use as a rental property will result if a condominium application is denied, there are many other cases in which reversion to single-family ownership tenure is feasible. In other cases, buildings may be demolished and replaced with housing for ownership tenure. It is not practicable to administer a policy which deals with individual cases according to their likelihood of remaining in rental tenure.

Over the past three years, a total of 135 rental units were contained in converted dwelling houses for which condominium applications were approved. 53 of these were in illegal bachelorettes. To the extent that loss of rental housing has occurred, it has clearly not been extensive. In our view, the present policy has helped to further intensified use of the housing stock (where deconversion to a single residence was the alternative), and preservation of large older houses

(where demolition was the alternative). These gains appear more than commensurate with the small net loss in rental units which may have been involved. The only change to the present policy on converted dwelling houses which we would propose at this time concerns incumbent tenants not wishing to purchase their units. Our recommendation is that the one-year lease policy outlined above with respect to other types of buildings be extended to tenants in converted dwelling houses as well.

A final issue to be addressed is the effect of conversions on the market for new condominiums. Recent experience has indicated that this market is finite and can easily be over-built. In our view, the City needs the jobs and assessment growth which result from construction of new condominium projects. Wholesale condominium conversions, as have occurred in parts of the United States, can have severe negative impacts on new condominium development. The proposals we have outlined would result in conversion of at most 200 units, with the possible addition of some duplex units, which are less directly competitive with new units. This number is very unlikely to result in undue negative impact on the market for new units. However, we would caution strongly against any attempt to widen the scope of condominium conversion activity beyond the parameters proposed herein. Even if the rental vacancy rate rises above 2.5%, condominium conversion should never be available as-of-right. City Council and Metro (which has final approval power regarding condominiums) should continue to exercise discretionary control over condominium conversions.

Recommendations:

1. That Council reaffirm its existing condominium conversion policy, adopted initially in 1974 and again in 1981, that conversions not be considered until such time as the Metro-wide rental vacancy rate as determined by CMHC exceeds 2.5% *except*:

   (a) In the case of converted dwelling houses constructed originally as single-family residences (an exemption in place since 1980); and

   (b) in the case of buildings for which August 1983 rents exceeded $750 for all units; (with respect to any units which were vacant in that month, independent appraisals must be furnished to establish that the rental value exceeded $750/month). (A new exemption proposed herein.)

2. That copies of this report be transmitted to owners of all multi-unit rental buildings in the City, with a covering letter indicating that if they wish to qualify for the exemption noted in Recommendation 1(b) at any future time, they must contact the Commissioner of Planning and Development by November 1, 1983, in order that August 1983 rents be certified prior to the end of this year.

3. That with respect to the exemptions indicated in Recommendation 1(a) and 1(b), it be the policy of Council to require building owners to permit incumbent tenants not wishing to purchase their units to remain as tenants for one year following the date of final condominium registration, under security of a lease on terms satisfactory to City Council.

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Appendix

Condominium Conversion Proposals for Rental Apartment Projects
Approved 1980-1983

	Number of Dwelling Units		
	Pre-Conversion	Post-Conversion	Change
Ward 5			
40 Hazelton Av.	17	11	- 6
68 Kendall Av.	8	8	0

Ward 6			
Village-by-the-Grange 75 McCaul St.	616	616	0
Ward 10			
75 Crescent Rd.	16	9	- 7
94 Crescent Rd.	25	10	- 15
8 Hawthorn Gdns.	15	13	- 2
66 Roxborough St. E.	11	10	- 1
Total	708	677	- 31

Source: City of Toronto Land Use File.

The Committee also submits the report (September 23, 1983) from the Commissioner of Planning and Development:

Subject: Report of The Study Group on Condominium Conversions

Origin: Land Use Committee (c71luc83520:44)

Comments: On September 7, 1983, the Land Use Committee had before it a report from The Study Group on Condominium Conversions (August 30, 1983). The Committee deferred consideration of this report to its meeting on October 5th and requested that I comment thereon. This report is submitted in response to the Committee's request.

1. Present Status of the City's Policy

During the past three years, Council has adopted the recommendations of three Planning reports which have reviewed the condominium policy (1). In adopting these recommendations, Council:

- reaffirmed the original (1974) policy of withholding approval to convert rental apartments to condominium as long as the rental vacancy rate is below 2.5%; and
- established a new exemption for converted single-family residences (which have been subdivided to provide flats) largely on the basis that the likely alternative to condominium conversion is return to their original use as freehold single residences rather than remaining as rental accommodation.

This policy has been based on objectives of:

- protecting the interests of tenants who are not financially able to purchase a condominium apartment, and for whom finding equivalent rental accommodation in a tight rental market is difficult;
- minimizing negative effects of conversions on the viability of new condominium development;
- encouraging continued multiple-occupancy of converted single-family residences; and
- discouraging evictions due to luxury-renovations of moderate-rental apartments.

As the Study Group's report indicates, although Council has reaffirmed the condominium policy, it has also approved a number of conversions of apartment houses on an exceptional basis. In most instances, these exceptions were approved primarily on the basis that the likely alternative to condominium conversion was operation as luxury-rental buildings. As a result, other applications have inevitably been encouraged to come forward, arguing for approval on this basis.

Where the present policy has been appealed, the Ontario Municipal Board and the Provincial Cabinet have upheld it on the basis that Council has applied the policy consistently. However, this occurred prior to the more recent approval of exceptions to the policy. Thus, I concur with the Study Group's conclusion that unless the level of uncertainty with regard to policy objectives is reduced, some of Council's future decisions may be over-turned on appeal, particularly in the case of luxury-rental buildings.

2. Proposed Changes

In effect, the Study Group's recommendations would introduce two amendments to the present policy:

- an exemption for luxury-rental buildings (defined as those in which rents or appraised rental value of all units exceeded $750/month as of August, 1983); and

- some measure of security for tenants who do not intend to purchase their units (a 1-year lease following final condominium registration, on terms satisfactory to Council).

With regard to the first amendment, as the Study Group's report has indicated, Planning staff have estimated that this exemption would apply to a relatively small number of buildings, and to a portion of the apartment stock in which the rental vacancy rate is well above normal levels. Thus, the exemption would affect a relatively small number of tenants who can afford higher rents and should be able to find other apartments in the same rental range.

Further, this amendment would reduce the likelihood of evictions due to future luxury renovations because the Study Group's proposals limit eligibility for condominium conversion to existing luxury buildings. Buildings which become luxury rental buildings in future are not eligible.

With regard to the second amendment, the security of tenure provision would extend to tenants of both luxury-rentals and converted houses. This is an appropriate means of providing tenants with adequate time to seek alternative accommodation, in the event that they do not wish to purchase their units.

Conclusions

The Study Groups's recommendations, if adopted, would tighten the present policy by making it clear that exemptions apply to only existing luxury-rental buildings and converted dwelling houses. The two amendments proposed provide a basis for a coherent policy, likely to withstand the test of appeals if applied consistently.

Recommendation:

That the recommendations of the Study Group on Condominium Conversions be adopted.

Reference

1. The 3 reports referred to are:

   - Condominium Conversion Policy Review, Cl. 18, Land Use Committee Report No. 7, adopted by Council March 13, 1981;

   - Condominium Conversion Policy, Cl. 11, Land Use Committee Report No. 10, adopted by Council May 20, 1982; and

   - Confronting the Crisis, Cl. 17, Neighbourhoods Committee Report No. 3, adopted by Council February 11, 1982.

The Committee also submits the report (undated) from Mr. Dale Martin, Chairperson, Federation of Metro Tenants' Associations:

Subject: Report of the Study Group on Condominium Conversion

We are writing with some concern in response to the report of the Study Group on Condominium Conversions. Concern because we believe that rather than tightening up the existing policy on Condominium Conversion, it merely makes an indeterminate number of units automatically exempt from the policy. In our view the present application of the policy has, with the exception of Village-By-The-Grange, been more than adequate and by allowing an exemption on the grounds that the units are luxury will both encourage the conversion of qualifying units and establish a precedent for further more general exemptions.

It is probably useful to restate the reasons that the Federation supports the current policy on Condominium Conversions. While the broader economic implications of increasing the number of condominium units on the market in light of the current surplus is worth mentioning, far and away the most important aspect of the issue concerns the affect of condominium conversions on:

(a) the existing supply of affordable rental housing; and
(b) the security of tenure of the tenants resident in buildings threatened with conversion.

Although the Federation is in total agreement with comments made in the report of the study group concerning the need to preserve our stock of affordable housing, we believe the definition of luxury stock, and thus by implication what we should consider affordable housing, is highly contentious and in fact contradicts City Council's own views on the matter. Both the Federation of Metro Tenants and the City of Toronto in its brief to the Thom Inquiry call for a change in existing Rent Review Law in recognition of the fact that $750 no longer represents a reasonable definition of luxury rental since inflation has made this standard, set in 1979, obsolete. In the case of the City of Toronto it was recommended that the "luxury" level be reset at $1,000 per month. Surely then consistency demands that any dividing line between affordable and luxury be also set at $1,000 for the purpose of the Condominium Conversion policy.

In the same vein, the report suggests that the proposed exemption will have an extremely limited impact on the supply of rental housing causing at most 200 units to be lost. However, the report itself admits that duplexes are not a part of the estimate. Since duplexes compose some 7.6% of total stock representing more than 8,000 units it is quite ridiculous to suggest, as the report does, that very few units would be lost without knowing what percentage of the duplex stock qualify's. This fact alone undermines the apparent logic for adopting the over-under $750 limit as the criteria, namely that the CMHC collects some data on that basis. Hardly a logic for evicting an indeterminate number of tenants.

Which brings us back to the issue of security of tenure. The emphasis in the report is exclusively on the problem of the loss of affordable housing stock. Beyond proposing a mandatory one year lease after registration as a condominium and a passing reference to the fact that more apartments are available at $750 per month than at lower rents, there is absolutely no consideration of the human and social consequences of eviction. While the problems associated with eviction are somewhat reduced by the availability of comparable units nearby, the fundamental injustice of eviction without cause or compensation remains, regardless of your income level. It is clear that the authors of the report did not speak to any of the tenants in even the 200 units when they write, "We believe that once the issue of protecting the moderate rental stock has been dealt with, there is no reason why condominium conversions of other buildings should not be considered".

Our concerns with the substance of the report can therefore be summarized as:

1. The $750 limit is not a luxury standard by any criteria and no matter how convenient from the point of view of data collection it is much too low.

2. The estimate of the number of units affected by the proposal is also too low particularly as it impacts on the 14,000 units in small multiplex buildings.

3. The security of tenure issue is misunderstood and as a result inadequately dealt with by the report.

By way of a solution to these problems in the report the Federation would like to make the following proposal:

That no blanket exemption for condominium conversion be made, instead:

1. That Council reaffirm its existing Condominium Conversion policy as amended in 1980.

2. That Council continue its case by case review of applications for special exemption to the policy with the proviso that no building containing units renting for less than $1000 per month on August, 1983, will be eligible for such consideration.

3. That all tenants in buildings granted conversion permission will be entitled to security of tenure in their unit so long as they desire it, and units will only be sold as condominium units when voluntarily vacated.

The following persons addressed the Committee:

- *Mr. John Argue, Riverdale Legal Services*
- *Ms. Leslie Robinson, Federation of Metro Tenants' Association*
- *Reverend Eilert Frerichs*
- *Alderman Layton*

The following motions by Alderman Campbell were voted on and lost:

1. *That the amount referred to in recommendation 1(b) of the report of the Study Group on Condominium Conversion be changed from "$750.00" to "$1,000.00";*

2. *That it will be Council's policy to refuse any condominium conversion applications that do not comply with recommendation 2 of the above-noted report; and*

3. *That recommendation 3 of the above-noted report be amended by deleting the words "for one year" and inserting in lieu thereof the words "as long as they so desire".*

The Committee amended recommendation 2 in the report dated August 30, 1983, from the Study Group on Condominium Conversion by changing the date "November 1, 1983" to "January 1, 1984" and recommends that the report as amended, be adopted.

The Committee further recommends that the Commissioner of Planning and Development be requested to submit a subsequent report on the Condominium Conversion Policy as it relates to buildings under six units.

The Committee further recommends that the City Solicitor be requested to report on the form of an Official Plan Amendment required to place the Condominium Conversion Policy in the City's Official Plan.

(Council Action)

Alderman Grys declared a pecuniary interest in this matter and advised Council the general nature of his interest was that this Clause falls into a category of duplexes which his wife owns.

Alderman Campbell, seconded by Alderman Sewell, moved that:

1. *Recommendation 1(b) of the report of the Study Group on Condominium Conversion be amended by deleting the figure "$750.00" and inserting in lieu "$1,000.00".*

2. *Recommendation 3 of the Study Group be amended by deleting the words "for one year" and inserting in lieu thereof the words "as long as they so desire".*

Adoption of Part (1) of the motion of Alderman Campbell was lost on the following division of votes:

Yeas: Aldermen Johnston, Sewell, Layton, Gilbert, Campbell, Pantalone, Reville and Thomas - 8.

Nays: His Worship the Mayor and Aldermen Beavis, O'Donohue, Rowlands, Hope, Piccininni, Boytchuk, Clifford, Walker, Kanter, Shea and Jakobek - 12.

Adoption of Part (2) of the motion of Alderman Campbell was lost on the following division of votes:

Yeas: Aldermen Johnston, Sewell, Layton, Gilbert, Campbell, Pantalone, Reville and Thomas - 8.

Nays: His Worship the Mayor and Aldermen Beavis, O'Donohue, Rowlands, Hope, Piccininni, Boytchuk, Clifford, Walker, Kanter, Shea and Jakobek - 12.

Adoption of the last recommendation of the Land Use Committee was lost on the following division of votes:

Yeas: Aldermen Johnston, Sewell, Layton, Gilbert, Campbell, Pantalone, Reville and Thomas - 8.

Nays: His Worship the Mayor and Aldermen Beavis, O'Donohue, Rowlands, Hope, Piccininni, Boytchuk, Clifford, Walker, Kanter, Shea and Jakobek - 12.

Adoption of the Clause as amended was carried on the following division of votes:

Yeas: His Worship the Mayor and Aldermen Beavis, O'Donohue, Rowlands, Hope, Piccininni, Boytchuk, Clifford, Walker, Kanter, Shea and Jakobek - 12.

Nays Alderman Johnston, Sewell, Layton, Gilbert, Campbell, Pantalone, Reville and Thomas - 8.